IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24504 of 2004

Between:

Donkala Krishnaiah, S/o. China Subba Naidu,
R/o. Pullaneellapalli (Vill), Chejerla Mandal, Nellore District.

..... PETITIONER

AND

1 The District Collector (Pt. Wing), Nellore.
2 The District Panchayat Officer, Nellore District, Nellore.
3 The Divisional Panchayat Officer, Nellore District, Nellore.
4 The Extension Officer (PR & RD), Mandal Parishad, Chejerla, Nellore District.
5 Pelleru Gram Panchayat, Rep. by its Secretary, Pelleru Villge, Chejerla Mandal, Nellore District.
6 Nalubolu Narasappa Naidu, S/o. Masthan Naidu, R/o. Pelleru (Village), Chejerla Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS under Article 226 of the Constitution of India, declaring the action of the Divisional Panchayat Officer, Nellore, Nellore District in issuing the notice in ROC.No.462/2004-A dated 18-12-2004, wherein the auction dated 11-11-2004 conducted by the Pelleru Gram Panchayat, Chejerla Mandal Nellore District for selling Japan Babul Trees (Kampa Karra Tree) is stayed, is arbitrary, illegal, without jurisdiction, in violation of principles of natural justice and consequently set aside the said notice of the Divisional Panchyat Officer, Nellore, Nellore Ditrict, in ROC.No. 462/2004-A dated 18-12-2004.

Counsel for the Petitioner: MR.CH.CKRISHNA REDDY

Counsel for the Respondent Nos.1 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

HONOURABLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO.24504 OF 2004

ORDER:

This writ petition is directed against the order of the third respondent dated 18.12.2004 in Roc.No.462/2004-A wherein the auction dated 11.11.2004 conducted by the Pelleru Gram Panchayat, Chejerla Mandal is stayed.

The facts, in brief, are that in a public auction conducted on 11.11.2004 by the Pelleru Gram panchayat with regard to sale of Japan Babul Trees, the petitioner became highest bidder for the bid amount of Rs.1,81,000/-. The said auction was confirmed by the 4th and 5th respondents and the petitioner paid Rs.90,500/- each on 11.11.2004 and 20.11.2004 respectively and an agreement was also entered into by the Pelleru Grampanchayat-5th respondent to the effect that he is entitled to cut the trees up to 30.6.2005.

It is the further case of the petitioner that on a complaint that the trees were undervalued and the same will fetch Rs.5,00,000/-, the third respondent-Divisional Panchayat Officer stayed the auction held on 11.11.2004, wherein the petitioner was the highest bidder, and the petitioner was prohibited from cutting and transporting the trees. It is also stated in the impugned order that steps will be taken to conduct fresh auction.

It is the case of the petitioner that the auction was conducted only after fixing of upset price at Rs.1,50,000/- by the third respondent-Divisional Panchayat Officer and the said auction was confirmed by the fourth respondent-Extension Officer. The grievance of the petitioner is that he has deposited the entire bid amount of

Rs.1,81,000/- and that he has already cut 60% of the trees by incurring expenditure and that at this stage respondents cannot take steps for conducting auction afresh.

When, admittedly, there is an offer for an amount of Rs.5,00,000/-, which is much more than the bid amount deposited by the petitioner and when there is a complaint of under valuation of the trees, the Panchayat has certainly a right to conduct auction afresh for fetching more revenue. Apart from that, it is submitted on behalf of the respondents that on 6.1.2005 they are going to conduct a fresh auction. In view of the allegation that the trees were undervalued, which is affecting the revenues of the Panchayat, the impugned notice of the third respondent dated 18-12-2004 staying the auction dated 11-11-2004 which was knocked down in favour of the petitioner cannot be said to be illegal and arbitrary.

In the above view of the matter, the writ petition is disposed of with the observation that the petitioner is at liberty to participate in the auction, stated to be conducted by the respondents on 06.01.2005 with respect to Japan Babul Trees. The expenditure incurred, if any, by the petitioner in cutting the trees in pursuance of the earlier allotment made to him, shall be reimbursed by the fifth respondent-Pelleru Grampanchayat.

31.12.2004.

mdaa.

Copy to:

1 The District Collector (Pt. Wing), Nellore.
2 The District Panchayat Officer, Nellore District, Nellore.
3 The Divisional Panchayat Officer, Nellore District, Nellore.
4 The Extension Officer (PR & RD), Mandal Parishad, Chejerla, Nellore District.

5 Pelleru Gram Panchayat, Rep. by its Secretary, Pelleru Villge, Mandal, Nellore District.
6. Two C.Cs to G.P.for Revenue, High Court of A.P., Hyderabad.(out)

7. Two C.D.copies.